

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 300

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Antoinette Sedillo Lopez

AN ACT

RELATING TO TAXATION; CREATING THE PAID TIME OFF INCOME TAX
CREDIT AND THE PAID TIME OFF CORPORATE INCOME TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] PAID TIME OFF INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another
individual and who provides paid time off to employees of the
taxpayer may claim a credit against the taxpayer's tax
liability imposed pursuant to the Income Tax Act pursuant to
this section; provided that the taxpayer employs twelve
employees or fewer, and the employee for whom the paid time off
is provided earned a wage of sixteen dollars (\$16.00) or less
per hour, for the taxable year in which the credit is claimed.

underscoring material = new
~~[bracketed material] = delete~~

1 The tax credit provided by this section may be referred to as
2 the "paid time off income tax credit".

3 B. The paid time off income tax credit shall be
4 allowed for three consecutive years in an amount equal to the
5 product of an employee's paid time off hours multiplied by the
6 employee's hourly wage, for each of the taxpayer's employees
7 that meet the requirements of this section and further
8 multiplied by:

9 (1) one hundred percent for the first taxable
10 year the tax credit is claimed;

11 (2) seventy-five percent for the second
12 taxable year the tax credit is claimed; and

13 (3) twenty-five percent for the third taxable
14 year the tax credit is claimed.

15 C. That portion of the tax credit claimed by a
16 taxpayer that exceeds the taxpayer's income tax liability in
17 the taxable year in which the tax credit is claimed shall not
18 be refunded to the taxpayer or carried forward to any other
19 year.

20 D. Married individuals filing separate returns for
21 a taxable year for which they could have filed a joint return
22 may each claim only one-half of the paid time off income tax
23 credit that would have been claimed on a joint return.

24 E. A taxpayer may be allocated the right to claim a
25 paid time off income tax credit in proportion to the taxpayer's

underscoring material = new
~~[bracketed material]~~ = delete

1 ownership interest if the taxpayer owns an interest in a
2 business entity that is taxed for federal income tax purposes
3 as a partnership or limited liability company and that business
4 entity has met all of the requirements to be eligible for the
5 credit. The total credit claimed by all members of the
6 partnership or a limited liability company shall not exceed the
7 allowable credit pursuant to this section.

8 F. A taxpayer allowed a tax credit pursuant to this
9 section shall report the amount of the tax credit to the
10 department on a form and in a manner required by the
11 department.

12 G. The department shall compile an annual report on
13 the tax credit provided by this section that shall include the
14 number of taxpayers approved by the department to receive the
15 tax credit, the aggregate amount of tax credits approved and
16 any other information necessary to evaluate the tax credit.
17 The department shall compile and present the annual report to
18 the revenue stabilization and tax policy committee and the
19 legislative finance committee with an analysis of the cost of
20 the tax credit.

21 H. As used in this section:

22 (1) "employee" does not mean the taxpayer or
23 any family member of the taxpayer;

24 (2) "paid time off hours" means the number of
25 hours a taxpayer paid an employee, up to eight hours per day,

.218832.1

underscored material = new
[bracketed material] = delete

1 while the employee was not at work, not to exceed fifty-six
2 hours for the taxable year for which the paid time off income
3 tax credit is claimed by the taxpayer. "Paid time off hours"
4 shall not include hours worked on a weekend or state or
5 national holiday; and

6 (3) "wage" means all compensation paid to an
7 employee through the taxpayer's payroll system, including those
8 wages that the employee elects to defer or redirect or the
9 employee's contribution to a 401(k) or cafeteria plan program.
10 "Wage" does not include benefits, such as the taxpayer's
11 contributions to insurance programs, health care, medical,
12 dental and vision plans, life insurance, contributions to
13 pensions, such as a 401(k), and services, such as child care,
14 offered to the employee; or the taxpayer's share of payroll
15 taxes, social security or medicare contributions, federal or
16 state unemployment insurance contributions or workers'
17 compensation."

18 SECTION 2. A new section of the Corporate Income and
19 Franchise Tax Act is enacted to read:

20 "[NEW MATERIAL] PAID TIME OFF CORPORATE INCOME TAX
21 CREDIT.--

22 A. For taxable years 2021 through 2023, a taxpayer
23 that provides paid time off to employees of the taxpayer may
24 claim a credit against the taxpayer's tax liability imposed
25 pursuant to the Corporate Income and Franchise Tax Act pursuant

.218832.1

underscoring material = new
~~[bracketed material] = delete~~

1 to this section; provided that the taxpayer employs twelve
2 employees or fewer, and the employee for whom the paid time off
3 is provided earned a wage of sixteen dollars (\$16.00) or less
4 per hour, for the taxable year in which the credit is claimed.
5 The tax credit provided by this section may be referred to as
6 the "paid time off corporate income tax credit".

7 B. The paid time off corporate income tax credit
8 shall be in an amount equal to the product of an employee's
9 paid time off hours multiplied by the employee's hourly wage,
10 for each of the taxpayer's employees that meet the requirements
11 of this section and further multiplied by:

12 (1) for taxable year 2021, one hundred
13 percent;

14 (2) for taxable year 2022, seventy-five
15 percent; and

16 (3) for taxable year 2023, twenty-five
17 percent.

18 C. That portion of the tax credit claimed by a
19 taxpayer that exceeds the taxpayer's corporate income tax
20 liability in the taxable year in which the tax credit is
21 claimed shall not be refunded to the taxpayer or carried
22 forward to any other year.

23 D. A taxpayer allowed a tax credit pursuant to this
24 section shall report the amount of the tax credit to the
25 department on a form and in a manner required by the

.218832.1

1 department.

2 E. The department shall compile an annual report on
3 the tax credit provided by this section that shall include the
4 number of taxpayers approved by the department to receive the
5 tax credit, the aggregate amount of tax credits approved and
6 any other information necessary to evaluate the tax credit.
7 The department shall compile and present the annual report to
8 the revenue stabilization and tax policy committee and the
9 legislative finance committee with an analysis of the cost of
10 the tax credit.

11 F. As used in this section:

12 (1) "employee" does not mean the taxpayer or
13 any family member of the taxpayer;

14 (2) "paid time off hours" means the number of
15 hours a taxpayer paid an employee, up to eight hours per day,
16 while the employee was not at work, not to exceed fifty-six
17 hours for the taxable year for which the paid time off income
18 tax credit is claimed by the taxpayer. "Paid time off hours"
19 shall not include hours worked on a weekend or state or
20 national holiday; and

21 (3) "wage" means all compensation paid to an
22 employee through the taxpayer's payroll system, including those
23 wages that the employee elects to defer or redirect or the
24 employee's contribution to a 401(k) or cafeteria plan program.
25 "Wage" does not include benefits, such as the taxpayer's

.218832.1

underscoring material = new
[bracketed material] = delete

1 contributions to insurance programs, health care, medical,
2 dental and vision plans, life insurance, contributions to
3 pensions, such as a 401(k), and services, such as child care,
4 offered by the taxpayer to the employee; or the taxpayer's
5 share of payroll taxes, social security or medicare
6 contributions, federal or state unemployment insurance
7 contributions or workers' compensation."

8 - 7 -
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

.218832.1